

**THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

PATRICIA A. LECKENBY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	No. 05-3570-CV-S-FJG-SSA
JO ANNE B. BARNHART,	)	
COMMISSIONER OF SOCIAL SECURITY,	)	
	)	
Defendant.	)	

**ORDER**

Pending before the Court is Plaintiff's Application for Leave to File Civil Action Without Payment of Fees Costs, or Security, with Affidavit of Financial Status in Support (Doc. No. 13). Together with said motion is Plaintiff's Affidavit of Financial Status. Plaintiff seeks in forma pauperis status on appeal.

Pursuant to 28 U.S.C. § 1915, this Court may authorize the commencement or prosecution of any suit without prepayment of fees when an applicant files an affidavit stating that he is unable to pay the costs of the lawsuit, and the Court determines that the lawsuit is not frivolous or malicious. In determining whether in forma pauperis status should be granted on appeal, the Court must also determine whether an appeal is taken in good faith. See 28 U.S.C. § 1915(a)(3).

The Court must exercise its discretion in determining whether an applicant is sufficiently impoverished to qualify under § 1915. Cross v. Gen. Motors Corp., 721 F.2d 1152, 1157 (8th Cir. 1983). Such showing of poverty is sufficient if the applicant would become completely destitute or be forced to give up the basic necessities of life if required to pay the costs of the lawsuit. Adkins v. E.I. Du Pont De Nemours & Co., 335 U.S. 331,

339 (1948); Local Rule 83.7(a) (1999).

Plaintiff's Affidavit reveals that she is 37 years old and married. Plaintiff indicates she has two dependents, children ages 10 and 5. Plaintiff states in her affidavit that she is currently unemployed, and states she was previously employed at McDonald's for 7 ½ years (ending in 2001), earning a net income of \$6 per hour. Plaintiff's spouse works at Mansfield Building Supply, earning \$6 per hour, 3 days per week.

Plaintiff does not own real property. Plaintiff indicates she owns a 1994 Chevy pickup, with an estimated value of \$1,000, and a 1992 Pontiac Grand Prix, with an estimated value of \$500. Plaintiff indicates that she has \$15.00 cash on hand, and indicates that she banks at the Century Bank in Ava, Missouri. Plaintiff indicates that she receives \$399 in food stamps per month, and that her husband receives \$884 per month in Social Security Disability. Plaintiff also indicates she receives annual energy assistance of \$250 per year. Plaintiff reports that her monthly rental expense is \$90, and that she has a monthly mortgage expense of \$200 on her trailer.<sup>1</sup> She reports monthly grocery expenses of \$600, monthly electrical expenses of \$128, monthly gas expenses of \$54, monthly gasoline expenses of \$240, monthly auto insurance of \$60, monthly house insurance of \$30, monthly satellite TV expenses of \$60, monthly pet expense of \$12, monthly clothing expense of \$25, monthly "kid's activities" of \$80, and widely varying repair and maintenance expenses.

Based upon the information provided in plaintiff's affidavit, the Court believes that

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<sup>1</sup>The Court notes that plaintiff's application is internally inconsistent, in that she indicates she does not own real property, but later indicates that she pays \$200/month in mortgage expense on a trailer, the value of which is less than \$4,000. Nonetheless, the Court finds that these inconsistencies do not affect its determination on plaintiff's motion to proceed in forma pauperis.

plaintiff is sufficiently impoverished to be permitted to proceed in forma pauperis. Therefore, the Court will grant plaintiff's application for leave to file her appeal in forma pauperis. Additionally, the Court finds that Plaintiff's appeal is not barred by 28 U.S.C. § 1915(e)(2)(B). Further, the Court finds that Plaintiff's appeal is taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

Accordingly, it is hereby **ORDERED** that Plaintiff's Application for Leave to File Action Without Payment of Fees, Costs, or Security (Doc. No. 13) is **GRANTED**.

**/S/ FERNANDO J. GAITAN, JR.**

Fernando J. Gaitan, Jr.

United States District Judge

Dated: September 6, 2006  
Kansas City, Missouri